

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

GREGORY A. ALLEN,

Petitioner,

v.

Case No. 01-C-0791

JON E. LITSCHER,

Respondent.

---

ORDER GRANTING THE PETITIONER'S MOTION TO PROCEED ON APPEAL IN  
FORMA PAUPERIS (DOC. # 31)

---

Title 28 U.S.C. § 1915(a)(1) authorizes the commencement of an appeal without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the individual possesses and that the individual is unable to pay such fees. Section 1915(a)(3) adds that an appeal may not be taken in forma pauperis if the district court certifies in writing that the appeal is not taken in good faith. "Good faith" is an objective standard. *Coppedge v. United States*, 369 U.S. 438, 446 (1962); *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). An appeal is taken in "good faith" if it seeks review of any issue that is not clearly frivolous, *Coppedge*, 369 U.S. at 446; *Lee*, 209 F.3d at 1026, meaning that a reasonable person could suppose it to have at least some legal merit, *Lee*, 209 F.3d at 1026; *Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983). The existence of any nonfrivolous issue on appeal is sufficient to require the court to grant the petition for leave to proceed in forma pauperis. *Dixon v. Pitchford*,

843 F.2d 268, 270 (7th Cir. 1988).

In this case, it appears that petitioner's arguments are not so baseless that they would be dismissed as frivolous without further consideration. As a result, as far as § 1915(a)(3) is concerned, the petitioner should be allowed to proceed. According to the petitioner, he is employed and on the average earns fifty-six dollars each month during the past twelve months. (Allen Aff., at 1.) The petitioner advises that during the past twelve months he received a gift in the amount of fifty dollars and that he and his spouse have a total of seventy-five dollars in cash. (*Id.*) Consequently, the affidavit demonstrates that the petitioner should be allowed to proceed in forma pauperis.

Now, therefore,

IT IS ORDERED that petitioner's request for in forma pauperis status on appeal is granted.

Dated at Milwaukee, Wisconsin, this 16th day of May, 2005.

BY THE COURT

s/ C. N. Clevert, Jr.  
C. N. CLEVERT, JR.  
U. S. District Judge